

Mark A. Crabtree, OSB # 015070
E-mail: mark.crabtree@jacksonlewis.com
Daniel J. Moses, OSB # 151935
E-mail: daniel.moses@jacksonlewis.com
JACKSON LEWIS P.C.
200 SW Market St., Ste. 540
Portland, OR 97201
Telephone: (503) 229-0404
Facsimile: (503) 229-0405
Of Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MARY NAMETKA,

Plaintiff,

v.

OPTUM MEDICAL SERVICES, P.C., a
Foreign Professional Corporation,

Defendant.

Case No. 3:20-cv-00318

**DEFENDANT’S NOTICE OF
REMOVAL**

[28 U.S.C. §§ 1332, 1441 AND 1446 –
DIVERSITY JURISDICTION]

[Multnomah County Circuit Court
Case No. 20CV02579]

TO THE CLERK OF THE U.S. DISTRICT COURT, PLAINTIFF and PLAINTIFF’S
ATTORNEY OF RECORD HEREIN:

PLEASE TAKE NOTICE THAT Defendant Optum Medical Services, P.C., a North Carolina Professional Corporation (“Defendant”), hereby removes the above-referenced action from the Circuit Court of the State of Oregon for the County of Multnomah, to the United States District Court for the District of Oregon, Portland Division pursuant to 28 U.S.C. §§ 1441 and 1446, asserting original federal jurisdiction on the basis of diversity, codified in relevant part at 28 U.S.C. § 1332, and states that the removal is proper for the following reasons:

1. On January 13, 2020, Plaintiff Mary Nametka (“Plaintiff”) filed a Complaint in the Circuit Court of the State of Oregon, entitled, “*Mary Nametka v. Optum Medical Services, P.C.*” (“Complaint”), Multnomah County Circuit Court, Case No. 20CV02579. The Complaint alleges a single cause of action for disability discrimination under ORS 659A.112. Copies of the Summons and Complaint in that action are attached to this Notice of Removal (“Notice”) as Exhibit A. The Summons and Complaint constitute all process, pleadings, and orders that have been filed or served on Defendant in that action up to the present date. Declaration of Daniel J. Moses (“Moses Decl.”) ¶ 2, Ex. 1.

2. On January 27, 2020, copies of the Summons and Complaint were served on Defendant. Moses Decl. ¶ 3, Ex. 2. Defendant has filed no pleadings in response to the Complaint. This notice of removal is filed within thirty (30) days after service of process.

3. Subject matter jurisdiction on the basis of diversity of citizenship requires: (1) complete diversity of citizenship between the parties, and (2) “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. § 1332. Both requirements are met in the instant matter.

4. Plaintiff alleges that she “currently resides and at all material times resided in the state of Oregon in Multnomah County.” Compl. ¶ 4. Plaintiff, therefore, is, and at all times since the commencement of this action has been, a resident and citizen of the State of Oregon.

5. Defendant is a North Carolina professional corporation, with its principal place of business in the state of Minnesota. Moses Decl. ¶ 4, Ex. 3. A professional corporation is treated the same as a corporation for jurisdictional purposes. *See Hoagland v. Sandberg, Phoenix & Von Gontard, P.C.*, 385 F.3d 737, 741 (7th Cir. 2004) (noting that “a judicial consensus has . . . emerged that all corporations are to be treated the same way in determining

citizenship for diversity purposes”). Thus, Defendant is a citizen of North Carolina and Minnesota, and complete diversity exists between Plaintiff and Defendant.

6. In her Complaint, Plaintiff claims that she has suffered economic damages in “an amount not to exceed \$50,000.” Compl. ¶ 36. Plaintiff further claims that she has suffered emotional distress and is entitled to non-economic damages in an amount “not to exceed \$500,000.” *Id.* ¶ 37. Plaintiff further claims that she is entitled to “recover her reasonable attorneys’ fees, expert fees and costs” under Oregon law. *Id.* ¶ 38. Thus, the amount in controversy in this case exceeds \$75,000.

7. This is an action of civil nature over which the District Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a), in that it is a suit for damages between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000. The state court action is therefore removable to this Court pursuant to 28 U.S.C. § 1441.

8. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice has been given to Plaintiff, and a true and correct copy of this Notice has been filed with the Clerk of the Circuit Court of the State of Oregon for the County of Multnomah.

WHEREFORE, Defendant prays for removal of the action pending in the Circuit Court of the State of Oregon for the County of Multnomah, bearing case No. 20CV02579, to the United States District Court for the District of Oregon, pursuant to 28 U.S.C. § 1441.

Dated this 26th day of February, 2020.

Respectfully submitted,

JACKSON LEWIS P.C.

By: s/ Daniel J. Moses
Mark A. Crabtree, OSB #015070
Daniel J. Moses, OSB # 151935

Of Attorneys for Defendant

DECLARATION OF SERVICE

I hereby certify that I served the foregoing **DEFENDANT'S NOTICE OF REMOVAL**
via:

- ☐ Electronic Mail
- ☐ US Postal Service
- ☒ CM/ECF
- ☐ Facsimile Service
- ☐ Hand Delivery
- ☐ UPS

Service was accomplished at the parties' email addresses as recorded on the date of service in the eFiling system.

Alexander C. Trauman, OSB # 075491
MOTSCHENBACHER & BLATTNER LLP
117 SW Taylor St., Suite 300
Portland, OR 97204
[Atrauman@portlaw.com](mailto:Atauman@portlaw.com)

Attorneys for Plaintiff

DATED this 26th day of February, 2020.

By: s/ Delores Petrich
Delores Petrich